

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of ____, 2000:

Present

Vote

Walter C. Zaremba, Chairman
James S. Burgett, Vice Chairman
Sheila S. Noll
Donald E. Wiggins
Melanie L. Rapp

On motion of ____, which carried __, the following ordinance was adopted:

AN ORDINANCE TO AMEND SECTIONS 21-150, 21-151, AND 21-163, YORK COUNTY CODE, PERTAINING TO THE COUNTY'S TAX ON PREPARED FOOD AND BEVERAGES, TO AMEND THE DEFINITION OF "FOOD," TO INCORPORATE CHANGES REQUIRED BY LEGISLATION ADOPTED BY THE 1999 AND 2000 VIRGINIA GENERAL ASSEMBLIES, AND TO MAKE VARIOUS OTHER AMENDMENTS

BE IT ORDAINED by the York County Board of Supervisors, this ____ day of ____, 2000, that sections 21-150, 21-151, and 21-163, York County Code, be and they are hereby amended to read and provide as follows:

Sec. 21-150. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Caterer. A person who furnishes food on the premises of another for compensation.

Commissioner of the revenue. The Commission of the Revenue of the County of York, Virginia, and any of his duly authorized deputies, assistants, employees or agents.

Food. Any and all edible refreshments or nourishment, liquid or otherwise, including

alcoholic beverages as defined in section 4.1-100, Code of Virginia, and non alcoholic beverages served as part of a meal, purchased in or from a restaurant or from a caterer, whether or not prepared in such restaurant or by such caterer, and whether or not consumed on the premises of such restaurant or caterer, and without regard to the manner, time, or place of service. except snack foods. The term shall not include "food" as defined in the federal Food Stamp Act of 1977 (7 U.S.C. §2012, as it may be amended from time to time), except that the term shall include sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages.

Person. Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases food in or from a restaurant or from a caterer.

Restaurant.

- (a) Any place where food is prepared for service to the public whether on or off the premises;
- (b) Any place where food is served to the public; or
- (c) Any place or operation which prepares or stores food for distribution to person of the same business operation or of a related business operation for service to the public.

Examples include: dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, lunchroom, short order place, tavern, delicatessen, confectionery, bakery, eating house, eatery, drugstore, catering service, lunch wagon or truck, pushcart or other mobile facility that sells food, dining facility in a public or private club, resort, bar or lounge, kitchen facility of a hospital or nursing home, and dining facility of a public or private school or college.

Seller. Any person who sells food in or from a restaurant or as a caterer.

Snack food. Chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

Treasurer. The Treasurer of the County of York and any of his duly authorized deputies, assistants, employees or agents.

Sec. 21-151. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered for human consumption in the county in or from a restaurant, whether prepared in such restaurant or not and whether consumed on the premises or not, or prepared by a caterer. The rate of this tax shall be four percent (4%) of the amount paid for such food. In the computation of this tax, any fraction of one-half cent (\$0.005) or more shall be treated as one cent (\$0.01).

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Sec. 21-163. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

- (a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee;
- (b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees;
- (c) Food for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States;
- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, ~~or~~ handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof;
- (e) Food ~~furnished by a nonprofit charitable organization and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices~~ to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations;
- (f) Food sold by a nonprofit education, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis where the gross proceeds of such sale are to be used

exclusively for non-profit educational, charitable, benevolent or religious purposes;

- (g) Food furnished by boarding houses that do not accommodate transients;
- (h) Food sold by cafeterias operated by industrial plants for employees only;
- (i) Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals;
- (j) Food sold by churches, fraternal and social organizations and volunteer fire departments and reserve squads which hold occasional dinners and bazaars of one or two day duration as a fund-raising activity, at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public;
- (k) Food furnished by churches which serve meals for their members as a regular part of their religious observance;
- (l) Food sold through vending machines;
- (m) Food sold by grocery stores ~~s-delicatessens~~ and convenience stores, except for prepared sandwiches and single meal platters prepared food ready for human consumption sold at a delicatessen counter or in a section designated for the sale of prepared food and beverages;
- (n) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption;
- (o) Snack foods not served as part of a meal;
- (p) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.

BE IT FURTHER ORDAINED that this ordinance shall take effect July 1, 2000.